

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JONATHAN WYCINSKY,

Plaintiff,

v.

CITY OF RICHMOND, et al.,

Defendants.

Case No. [16-cv-02873-MMC](#)

ORDER DISMISSING ACTION

In the above-titled action, plaintiff alleges claims against two named defendants, specifically, the City of Richmond ("the City") and Christopher Magnus ("Magnus"). For the reasons stated below, plaintiff's claims against both defendants will be dismissed pursuant to, respectively, Rules 12(b)(6) and 4(m) of the Federal Rules of Civil Procedure.¹

First, with respect to the City, by order filed August 2, 2016, plaintiff's claims against said defendant were dismissed for failure to state a claim upon which relief can be granted; by the same order, plaintiff was afforded the opportunity to file, no later than August 12, 2016, a First Amended Complaint, and was informed that if he did not do so, the case would proceed only as against Magnus. Plaintiff has not filed an amended

¹ Additionally, the Court notes that plaintiff has repeatedly failed to comply with court orders and otherwise prosecute his case. Plaintiff failed to comply with three orders directing him to indicate whether he would consent to the jurisdiction of a magistrate judge, failed to respond to the City's motion to dismiss, failed to respond to the magistrate judge's report and recommendation to dismiss the case, failed to adhere to ADR compliance deadlines, failed to appear at a regularly scheduled case management conference, and failed to file a mandatory case management statement in advance of such conference.

1 complaint.

2 Accordingly, for the reasons set forth in the Court's order filed August 2, 2016, to
3 the extent the above-titled action is brought against the City, the action is hereby
4 DISMISSED with prejudice, pursuant to Rule 12(b)(6).


5 Second, with respect to Magnus, by order filed September 14, 2016, plaintiff was
6 directed to show cause, in writing and no later than September 28, 2016, why his claims
7 against said defendant should not be dismissed for failure to serve within the time
8 required by Rule 4(m). Plaintiff has not filed a response to the Court's order.

9 Accordingly, plaintiff's claims against Magnus are hereby DISMISSED without
10 prejudice, pursuant to Rule 4(m).

11 In light of the above, the Clerk of Court is directed to close the file and enter
12 judgment in favor of defendants.

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14 **IT IS SO ORDERED.**

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16 Dated: September 30, 2016

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18 MAXINE M. CHESNEY
19 United States District Judge
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